IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 849 of 2005

WITH

CIVIL APPLICATION NO. 997 of 2005

Smt.Manik Padmakar More .. Appellant

versus

Nupoor Marketing .. Respondent

...

Mr.R.B. Jagtap for the appellant.

Mrs.Vandana D. Jaisingh for the respondent.

CORAM : B.H. MARLAPALLE,J

DATED : 1st September 2005

P.C.:

1. Heard Mr.Jagtap, the learned counsel for the appellant plaintiff.

2. The plaintiff has filed Civil Suit no. 10 of 2005 and in the same, an application for temporary injunction at Exhibit-5 has already been filed. By the impugned order dated 1st August 2005, this

application at Exhibit-5 came to be rejected.

3. In the application for interim injunction filed by the plaintiff, she prayed for restraining orders for distribution, publishing, reprinting, dubbing, converting into Video, and giving rights to or such other allied rights. An injunction was prayed against defendant no.1 M/s.Nupur Marketing. The claim of the plaintiff is based on a purported will dated 2nd January 1998 and the said will is a subject matter of probate proceedings registered as Misc. Application no.403 of 1998 before the learned Civil Judge, Sr. Division at Pune, whereas the defendant claims that the deceased had signed an agreement with one Mr.Shivshankar Yadav and Mrs.Sita Keshwani onn 7th February 199... and the defendant got these rights assigned in its favour. The trial Court noted that unless the probate proceedings are decided, plaintiffs rights cannot be considered moresover she claims to be the daughter of the sister of the deceased whereas the defendant firm is being represented by one Vijay Kondke who is the son of the real brother of deceased Dadasaheb Kondke. In a running business, it was not possible to issue an order of injunction moreso when the probate proceedings are still pending and therefore, no fault

could be found with the view taken by the Court below. It would be in the interest of both the parties that the probate proceedings are decided expeditiously.

4. The appeal is dismissed in limine. However, it is directed that Misc. Application no.403 of 1998 shall be decided as expeditiously as possible and in any case before 31st December 2005.

5. Civil Application does not survive.

B.H. MARLAPALLE, J